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TAGS: [PREL](#) [PGOV](#) [IZ](#)

SUBJECT: DPM BARHAM SALEH SAYS BLUEPRINT NEEDED FOR WAY
FORWARD ON ARTICLE 140

REF: A. BAGHDAD 3910

[1](#)B. BAGHDAD 3909

[1](#)C. BAGHDAD 3904

[1](#)D. BAGHDAD 3902

[1](#)E. BAGHDAD 3828

Classified By: Political Counselor Matt Tueller, for reasons 1.4 (b) and (d)

[1](#)1. (C) Summary. DPM Saleh told the Senior Advisor to the Ambassador November 27 that the Article 140 issues on Kirkuk and disputed territories were the most difficult in Iraq. But, he said, the outlines of a deal are there and the time was opportune to push Iraqi leaders to agree to a process to settle them. A UN role was a possibility, he said, but it would require clear terms of reference. End summary.

BLUEPRINT NEEDED ON ARTICLE 140 PROCESS

[1](#)2. (C) Calling Article 140 a "powder keg," DPM Saleh agreed that resolution is key to national reconciliation. He told Senior Advisor Pearce an immediate "blueprint" is needed on a way forward for the Article 140 process; the U.S. is uniquely positioned to make this happen with the top Iraqi leadership. He recently discussed Article 140 with the Kurdish Regional Government (KRG) President Masoud Barzani, KRG PM Nechirvan Barzani, and Foreign Minister Hoshyar Zebari. He said they discussed the options for resolving the impasse, either implement Article 140 at the micro-level (i.e. issue-by-issue) or come up with a grand solution between all parties on internal borders. The Arabs fear Kurdish encroachment in areas like Sinjar and Sheikhan in Ninewa, as well as Khanaqeen in Diyala, he noted. Because of these fears and stressing that his personal opinion differs from the official Kurdish public position, he thought that using the December 2005 election results as a means to determine the internal border may be the best way forward, rather than implementing Article 140 step-by-step. He said the preparatory group of political deputies should give strategic direction on the issue and encouraged USG engagement with GOI leaders to get a "green light" on a way forward.

3 (C) Technical work by the Article 140 committee on normalization processes must continue, DPM Saleh stressed. He also raised the need for a legal opinion on whether a referendum is in fact required by the Iraqi Constitution. Given the December 31, 2007 deadline in the Constitution for the Article 140 process, DPM Saleh said there should be some announcement in December of an implementation plan for the upcoming year to alleviate Kurdish reaction.

KURDISH POSITION AND CONCERNS

[1](#)4. (C) DPM Saleh stressed the need for clear terms of reference for the UN. He said the Kurds are concerned about UN involvement on Article 140 because of its role in the

Oil-For-Food Program, as well as its reluctance regarding the war. He agreed the UN does a good job on helping with elections, but said their role should be to provide technical assistance. "I don't want the UN determining the fate of northern Iraq," he said. The Kurds are also worried the UN will tend to favor states, like Turkey and Iran, instead of the interests of the Kurdish region of Iraq. At the same time, he agreed that a UN stamp of approval would be beneficial for any settlement regarding Article 140 and disputed territories.

15. (C) DPM Saleh said the Kurds are bound by their stated positions and many of the Sunni Arabs have diametrically opposed views. The U.S. would need to propose a compromise formula to bring the sides together. Saleh admitted it will be difficult to obtain resolution on the issue by the end of 2008. But, he said, an eventual settlement will defuse tensions in the north, make the Kurds feel an integral part of the national picture, and ensure their presence as a positive, pro-Western presence in Baghdad governing circles.

IS THERE ROOM FOR COMPROMISE?

16. (C) The DPM noted the UN could put together a referendum on the issue, or as an alternative, could organize a process focused on the December 2005 election results. Regarding the Article 140 process, Barham Saleh said, "This is the most difficult issue in Iraq, but the outlines of a deal are there, so let's push." The Senior Advisor, in turn, acknowledged that the issues were difficult and a quick resolution was not in the cards. At the same time, Kurd-Arab tensions in the north were rising and Al-Qaida and other terrorists were profiting from Arab fears of Kurdish

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encroachment. The perception was that the CF and the GOI were complicit in establishing a Kurdish ascendancy at Arab expense, and this was feeding the insurgency in a very unhelpful way. So it was destabilizing to not address the issue, and it was important for GOI leaders to agree on a fair and transparent process for resolving the Article 140 questions. We supported the expansion of the UNAMI mandate. The Deputy Secretary was in Baghdad later in the week and met with UNAMI rep De Mistura and other senior leaders (ref a). De Mistura was capable, energetic, and focused. We will be following up with all of the parties, and consulting on the ground with the UN and other international partners like the UK, on the best way forward. But the next step is the GOI's.

The Constitution calls for the Presidency Council and government to make recommendations to the CoR. If they cannot agree, then it requires them to unanimously agree on a neutral arbiter. If they cannot unanimously agree on that, it calls for recourse to the UN Secretary General to appoint one. The important thing is to put an agreed process in place, and not leave the issue to fester.

17. (C) Saleh said special rights should be given to Arabs and Turkmen. He added the Sunnis will be most concerned about Ninewa and urged the USG to engage VP Tariq al-Hashimi as a player in this process. He noted the status quo on this issue will not be acceptable to the tribes and some parts of the old regime that remain in Mosul. Saleh conceded, "we need to give them something on Mosul," noting concerns about Kurdish expansionism. He also noted the need to fully factor the Turkmen in the Article 140 process.

18. (C) Saleh urged engagement with PM Maliki, President Talabani, Vice Presidents Hashimi and Abdel Mehdi and KRG President Barzani as soon as possible. With their agreement, he could then engage the preparatory group of political deputies to follow up on the issue. He claimed that the ISCI bloc leader Hummam Hammudi, Vice President Abdul Mehdi, and he were "not too far apart" in terms of how to resolve Article 140. He stressed the need to bargain and find an agreed way forward, commenting, "we cannot continuing

fighting over this issue for the next forty years."

COMMENT

19. (C) Given Kurdish skepticism about the UN, it is noteworthy that Saleh did not rule out a UN role but focused instead on the need for agreed terms of reference. For negotiating purposes, we should expect the Kurds will likely retain a fairly stiff public position on this until the other Iraqi parties are on board for recourse to UN facilitation. The UNAMI's De Mistura is well aware of the skepticism among the Kurds about the UN. For that reason, we understand, he plans to focus on the argument that a UN role does not necessarily mean a UNSC role. He is likely to emphasize what he terms the "other UN", i.e. the role of specialized agencies and experts who can offer technical facilitative assistance. We will follow up in coming days with UNAMI to track their ideas. Meanwhile, as we enter December, the Article 140 Committee is preparing to make recommendations to the government and Presidency Council, possibly in the coming week, which will put the issue in play. In our meetings, we will press them to address the need for an agreed process, and not kick the can down the road yet again. In addition to the key political stakeholders in Baghdad, we will be following up in Kirkuk and Ninewa provinces to ensure that the Sunni Arabs, Turkmen, and other non-Kurd minorities understand that we are listening to them and that the USG and CF support a fair and transparent process for arriving at resolution of these contentious territorial issues.

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